



MEMORANDUM

Date: June 30, 2016

To: Common Council
From: Pamela A. Captain, City Attorney

Re: Claim of Chad Myhill

The Administration Committee was initially informed of this claim in February, 2016. Chad Myhill, 955 7th Street, is seeking \$24,754.62 for sewage/water damages he sustained on December 14, 2015. He writes that on that date the sewer drain cover was popped open and the basement floor was wet with standing water. Mr. Myhill provides no explanation with regard to the reason he believes the City is responsible for the sewer/water in his basement.

Over the course of a few days including Monday, December 14, the City of Menasha and immediately surrounding communities experienced back-to-back heavy rain events. *See attached US Army Corp of Engineer precipitation data.* None of our staff was called for any sanitary sewer issues and no alarms from the lift stations were reported to the police department over the weekend. The public works department started receiving calls early on the morning of December 14 about water/sewage in basements, storm catch basins full, water over the roadway, and water pooling in yard. Around 7 a.m., an alarm went off at the Ninth Street lift station. Within a short time after that the sanitary sewer system was surcharged. To alleviate the surcharge in the system in the 900 block of Seventh Street pumping occurred at the intersection of Seventh and Ida streets.

We also discovered that there were other surrounding communities that by-passed on this same date due to the rain event.

The by-passing that occurred helped to alleviate the surcharge the system experienced due to the heavy rain. The City of Menasha did not cause the damage Mr. Myhill sustained.

RECOMMENDATION: Deny the claim of Chad Myhill.

CITY OF MENASHA CLAIM FORM

NOTICE OF CIRCUMSTANCES (§893.80(1)(a))

NAME

Chad Myhill

TELEPHONE NO.

920- [REDACTED]

ADDRESS

955 7th St.

(street)

Menasha, WI 54952

(city, state, zip code)

CIRCUMSTANCES OF CLAIM: On the reverse side, describe the circumstances of your claim (attach additional sheets if necessary). For auto/property damages attach a copy of police report, if any; and a diagram of the accident scene including north, south, east or west. For personal injury indicate the nature of the injury; if medical attention was given, the name of the physician/immediate care/hospital. List the names and addresses of any witnesses to the incident/accident. The more specific the information, the easier the processing will be.

Incident/Accident Information:

Date

12/4/15

Place

955 7th St.

Time

Notice it at 5:30pm

Menasha, WI 54952

(Circumstances of claim and witnesses on reverse)

Signed:

Chad Myhill

Date:

12/17/15

CLAIM FORM (§893.80(1)(b))

You are not required to make a claim at this time. As long as you have completed and filed the above Notice of Circumstances of claim with the City of Menasha, you may file a claim against the City of Menasha at any time consistent with the applicable statute of limitations. **In order for the City of Menasha to formally accept or disallow your claim at this time, you must complete and sign the form below.** Please provide copies of any bills supporting the amount of the claim. For claims involving auto/truck/property damage, please attach two estimates.

The undersigned hereby makes a claim against the City of Menasha arising out of the circumstances described above. The claim is for relief in the form of money damages in the amount as indicated below, and non-monetary relief as follows:

Auto/truck:

\$

Property:

\$16,856.62

Personal Injury:

\$

Other (specify):

\$7,898 personal property

Signed:

Chad Myhill

Date:

12/17/15

Address:

955 7th street

(street)

Menasha, WI. 54952

(city, state, zip code)

RECEIVED

JAN 20 2016

revised 02/10

CITY OF MENASHA

BY: [Signature]

-Sewerage/Water Damage-

Circumstances of claim (attach additional sheets if necessary): On Dec. 14th 2015

Dawn Smith came to my residents house at 955 7th St. Menasha, WI 54952 to switch her laundry. As Dawn Smith approached the basement door she could hear beeping. Dawn noticed the entire basement floor was wet with standing water. Dawn left went about 3 blocks down to pick up Gary Shultz. Gary and Dawn went down into the basement, Gary checked the sump pump and told Dawn that's working just fine. The beep is coming from the sump pump to alert you that there is water on the floor. As Dawn and Gary entered the laundry room, they noticed the sewerage, and the sewerage drain cover was popped open. Gary and Dawn called me. I left work at 6pm Dec. 14th 2015. See next pg.

Witnesses (names and addresses): Dawn Smith
323 Union St.
Neenah, WI 54956

Gary Shultz
1120 Manitowish Rd. Menasha, WI 54952

Procedure for filing claims:

1. In most instances, a signed Notice of Circumstances of claim must be filed with the City Clerk within 120 days after the happening of the event giving rise to the claim or will be barred by the Statute of Limitations.
2. A Claim must also be filed with the City Clerk containing your address and an itemized statement of the relief or damages(s) sought. This is the bottom portion of the form entitled "Claim Form" Until this portion is completed and submitted to the City, no action will be taken. Mail or submit claims to: City Clerk, City of Menasha, 140 Main Street, Menasha, WI 54952.
3. The City Risk Manager and/or CVMIC (the City's liability insurance carrier) will then determine if your claim should be paid, compromised or disallowed. You will be notified by letter should the City determine to pay or compromise your claim. If your claim is determined to be disallowed, the matter may go before the Common Council for formal disallowance.
4. This procedure is established by State Statutes to provide a mechanism for persons to recover damages in the event a municipality is responsible for an incident. This procedure is also designed to protect the municipality and its taxpayers from having to pay out inappropriate and/or nuisance claims.

Dawn and Gary noticed the city pump at the corner of my street and took pictures. I had also noticed the city pump. As I walked down stairs into my fully furnished and finished basement there was standing water. The cover was off of my sewage drain, with sewage all over.

I called up my insurance they stated to me that this is not covered, that the City of Mendota is responsible for all of the damage.

I also made at least four other phone calls to insurance agents and Attorneys, and received the same response. I will enclose

one estimate that I had done, if I have not received the estimate yet; they will be getting copied and turned into you as soon as

I do receive them, along with the damage amount of personal belongings, and labor of removal.

Also the neighbors on my side of the street and across from me have the same problem. The neighbor on the right side of me is a professional Plumber, who called the city the same day and said to stop what you are doing.

Chad Myhill 12/17/15
chad myhill



FOX-WOLF BASIN HYDROLOGIC DATA DAILY PRECIPITATION



The United States Army Corps of Engineers collects and provides this accumulated daily precipitation data. All data are provisional. Blanks indicate data that are missing or not yet available. All data are reported in inches.

Date & Time	Fond du Lac	Berlin	Poygan	Waupaca	Royalton	New London	Fritse Park	Menasha	Oshkosh	Stock-bridge
01-DEC-2015	0.21	0.23	0.12	0.24	0.28	0.18	0.30	0.31	0.29	0.09
02-DEC-2015	0.00	0.02	0.01	0.04	0.01	0.01	0.01	0.00	0.00	0.00
03-DEC-2015	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
04-DEC-2015	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
05-DEC-2015	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
06-DEC-2015	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
07-DEC-2015	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
08-DEC-2015	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.01	0.00
09-DEC-2015	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
10-DEC-2015	0.00	0.04	0.03	0.13	0.06	0.20	0.11	0.01	0.03	0.01
11-DEC-2015	0.00	0.00	0.00	0.00	0.00	0.06	0.00	0.00	0.01	0.00
12-DEC-2015	0.01	0.00	0.00	0.00	0.00	0.03	0.00	0.00	0.00	0.00
13-DEC-2015	1.02	1.26	0.66	2.34	2.08	1.71	1.65	1.38	1.07	0.51
14-DEC-2015	0.77	1.14	0.79	1.64	1.57	1.65	2.01	1.73	0.94	0.37
15-DEC-2015	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total:	2.01	2.69	1.61	4.39	4.00	3.84	4.08	3.43	2.35	0.98



FOX-WOLF BASIN HYDROLOGIC DATA HOURLY PRECIPITATION



The US Army Corps of Engineers collects and disseminates this hourly precipitation data. All data are provisional and are subject to change. All data are referenced to Central Time. Blanks Indicate data that are missing or not yet available. All data are reported in inches.

[Click here for a map of station locations.](#)

Date & Time	Fond du Lac	Berlin	Poygan	Waupaca	Royalton	New London	Fritse Park	Menasha	Oshkosh	Stock-bridge
13-DEC-2015 00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
13-DEC-2015 01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
13-DEC-2015 02	0.02	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
13-DEC-2015 03	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
13-DEC-2015 04	0.06	0.24	0.02	0.13	0.12	0.16	0.01	0.00	0.01	0.00
13-DEC-2015 05	0.02	0.04	0.16	0.45	0.30	0.26	0.27	0.23	0.21	0.10
13-DEC-2015 06	0.19	0.18	0.13	0.35	0.44	0.32	0.37	0.25	0.13	0.10
13-DEC-2015 07	0.20	0.26	0.10	0.33	0.30	0.25	0.15	0.13	0.15	0.03
13-DEC-2015 08	0.07	0.05	0.03	0.07	0.06	0.08	0.20	0.16	0.15	0.04
13-DEC-2015 09	0.01	0.03	0.02	0.03	0.03	0.02	0.02	0.02	0.00	0.01
13-DEC-2015 10	0.00	0.01	0.00	0.03	0.06	0.02	0.00	0.01	0.00	0.00
13-DEC-2015 11	0.00	0.00	0.00	0.05	0.02	0.01	0.00	0.00	0.00	0.00
13-DEC-2015 12	0.00	0.09	0.02	0.10	0.06	0.02	0.01	0.00	0.00	0.00
13-DEC-2015 13	0.00	0.03	0.04	0.22	0.17	0.11	0.08	0.06	0.03	0.00
13-DEC-2015 14	0.01	0.01	0.01	0.07	0.10	0.08	0.08	0.08	0.02	0.02
13-DEC-2015 15	0.00	0.00	0.00	0.01	0.01	0.01	0.01	0.01	0.01	0.00
13-DEC-2015 16	0.01	0.01	0.00	0.03	0.03	0.02	0.01	0.01	0.00	0.01
13-DEC-2015 17	0.02	0.03	0.01	0.04	0.04	0.03	0.04	0.04	0.00	0.01
13-DEC-2015 18	0.06	0.04	0.03	0.04	0.05	0.05	0.06	0.05	0.03	0.03
13-DEC-2015 19	0.03	0.03	0.01	0.11	0.08	0.07	0.05	0.06	0.04	0.01
13-DEC-2015 20	0.03	0.03	0.02	0.06	0.05	0.05	0.04	0.04	0.03	0.03
13-DEC-2015 21	0.05	0.02	0.02	0.06	0.05	0.04	0.05	0.05	0.04	0.01
13-DEC-2015 22	0.17	0.05	0.01	0.05	0.04	0.05	0.06	0.05	0.07	0.04
13-DEC-2015 23	0.07	0.11	0.03	0.06	0.07	0.06	0.14	0.13	0.15	0.07
Total:	1.02	1.26	0.66	2.34	2.08	1.71	1.65	1.38	1.07	0.51

Runtime (Eastern Time):

Monday December 14 2015 2:57 PM



FOX-WOLF BASIN HYDROLOGIC DATA HOURLY PRECIPITATION



The US Army Corps of Engineers collects and disseminates this hourly precipitation data. All data are provisional and are subject to change. All data are referenced to Central Time. Blanks indicate data that are missing or not yet available. All data are reported in inches.

Date & Time	Fond du Lac	Berlin	Poygan	Waupaca	Royalton	New London	Fritse Park	Menasha	Oshkosh	Stock-bridge
14-DEC-2015 00	0.07	0.08	0.05	0.10	0.11	0.11	0.14	0.12	0.14	0.02
14-DEC-2015 01	0.06	0.07	0.04	0.08	0.07	0.10	0.13	0.12	0.07	0.01
14-DEC-2015 02	0.08	0.08	0.02	0.09	0.09	0.10	0.08	0.06	0.06	0.04
14-DEC-2015 03	0.12	0.08	0.04	0.11	0.13	0.13	0.19	0.13	0.07	0.03
14-DEC-2015 04	0.07	0.09	0.07	0.19	0.15	0.19	0.21	0.19	0.10	0.04
14-DEC-2015 05	0.06	0.05	0.05	0.12	0.14	0.20	0.13	0.11	0.04	0.03
14-DEC-2015 06	0.04	0.25	0.13	0.09	0.12	0.11	0.32	0.28	0.15	0.06
14-DEC-2015 07	0.00	0.15	0.13	0.21	0.18	0.21	0.34	0.28	0.04	0.00
14-DEC-2015 08	0.04	0.16	0.07	0.13	0.14	0.13	0.10	0.09	0.06	0.01
14-DEC-2015 09	0.05	0.09	0.11	0.23	0.23	0.19	0.24	0.20	0.12	0.05
14-DEC-2015 10	0.01	0.00	0.04	0.11	0.14	0.13	0.04	0.05	0.01	0.01
14-DEC-2015 11	0.00	0.00	0.00	0.01	0.00	0.00	0.00	0.00	0.00	0.00
14-DEC-2015 12	0.01	0.00	0.00	0.02	0.01	0.00	0.00	0.00	0.00	0.00
14-DEC-2015 13	0.01	0.01	0.00	0.09	0.02	0.02	0.01	0.02	0.04	0.02
14-DEC-2015 14	0.04	0.01	0.01	0.01	0.02	0.02	0.03	0.02	0.01	0.02
14-DEC-2015 15	0.09	0.01	0.01	0.03	0.01	0.00	0.03	0.03	0.01	0.01
14-DEC-2015 16	0.01	0.00	0.01	0.01	0.00	0.00	0.00	0.00	0.00	0.00
14-DEC-2015 17	0.00	0.00	0.01	0.00	0.00	0.00	0.00	0.01	0.00	0.00
14-DEC-2015 18	0.00	0.00	0.00	0.00	0.01	0.01	0.01	0.02	0.00	0.00
14-DEC-2015 19	0.00	0.01	0.00	0.01	0.00	0.00	0.01	0.00	0.01	0.01
14-DEC-2015 20	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.01	0.01
14-DEC-2015 21	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
14-DEC-2015 22	0.01	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
14-DEC-2015 23	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.00
Total:	0.77	1.14	0.79	1.64	1.57	1.65	2.01	1.73	0.94	0.37

Runtime (Eastern Time):

Tuesday December 15 2015 8:56 AM